

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.359 of 2021

Arising Out of PS. Case No.-27 Year-2021 Thana- RIGA District- Sitamarhi

NILESH JHA, aged about 16 years, Male, Son of Ravindra Jha, Resident of Village - Prem Nagar, Ward no. 16, P.S.- Runnisaidpur, District - Sitamarhi, through his natural guardian, mother, Gandhi Devi wife of Ravindra Jha, aged about 50 years, Resident of village - Prem Nagar, Ward no. 16, P.S.- Runnisaidpur, District – Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate

For the Respondent : Mr. Ram Bilash Roy Raman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and learned A.P.P. for the State through Virtual mode.

Learned counsel for the petitioner is directed to remove the defects, as pointed out by the office, within a period of four weeks.

This Criminal Revision Application has been preferred against the order dated 26.02.2021, passed by learned Ist Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi, in Criminal Appeal No. 6/2021 (Reg. No. 7/2021), whereby the appeal filed by the petitioner was dismissed against the order dated 29.01.2021, passed by learned



Juvenile Justice Board, Sitamarhi, in J.J.B. Case No. 1120/2020, whereby and whereunder the Juvenile Justice Board, Begusarai, has rejected the prayer for bail of the petitioner in connection with Riga P.S. Case No. 27/2021 registered under Sections 414 of the I.P.C. and Sections 25(1-b)a, 26 and 35 of the Arms Act.

The facts of the case, in brief, is that on 14.01.2021, the informant received confidential information that few criminals have entered Riga upon a Pulsar Motorcycle bearing Registration No. BR-06BR/2625 to commit some occurrence. To verify this information, the informant alongwith the police party reached *Kusmari Chowk* at 12.50 hours and started checking the vehicles. After sometime, a Pulsar Motorcycle ridden by two youth came there and tried to escape by speeding away the checking party and while pursuing them, the informant felt that the fleeing youth had drawn something from his waist and threw it in the field and they continued to flee towards Riga in high speed. Near Riga Mill Chowk, the Motorcycle stopped because its fuel got emptied and then both youth were apprehended by the police and they disclosed their names as Nilesh Jha (petitioner) and Arpit Anshu. Thereafter, in presence of two witnesses, the apprehended youths were frisked and from the pocket of the petitioner, loaded Magazine of a country made



pistol with three live cartridges and Oppo Mobile Phone were recovered. From the possession of co-accused Arpit Anshu, a Vivo Mobile and Pulsar Motorcycle were recovered and both were duly seized as they could not produce any document in this respect and it appears to the informant to be prima facie stolen property. Nilesch Jha (petitioner) disclosed that he had thrown the pistol in the field when he was being chased by the police and the spare Magazine has been recovered from his pocket.

Learned counsel for the petitioner submits that the petitioner is a juvenile and is in Remand Home since 15.01.2021. He has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. Charge sheet has been submitted in the present case. There is no compliance of Section 100 of Cr.P.C. He further submits that the father of the petitioner is ready to furnish an undertaking that while on bail he will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of *Lalu Kumar and Ors. V. The State of Bihar (reported in 2019 (4) PLJR 833)* where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015, in paragraph no. 84 of the judgment



has observed the following.

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr. P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-
(i) The release is likely to bring that person into association with any known criminal;
(ii) The release is likely to expose the said person to moral or psychological danger; and
(iii) The release would defeat the ends of justice.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner. It has further been pointed out that the release of the petitioner would defeat the ends of justice.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer by order dated 08.12.2021. The Probation Officer in his report has stated that the neighbours of the petitioner have not stated anything adverse



against the petitioner. The petitioner is pursuing his study. From perusal of the report, it appears that there is no material in the social investigation report of the petitioner which indicates that the release of the petitioner will bring him in association of any known criminal nor there is any finding that the petitioner would be imposed to physical/psychological danger on his release.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this criminal revision application is allowed and the order dated 26.02.2021, passed by learned Ist Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi, in Criminal Appeal No. 6/2021 (Reg. No. 7/2021) , in



J.J.B. Case No. 1120/2020 as well as the order dated 29.01.2021, passed by learned Juvenile Justice Board, Sitamarhi, in connection with J.J. Board Case No. 1120/2020, arising out of Riga P.S. Case No. 27/2021, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of surety bond of Rs. 10,000/- (Rupees Ten Thousand Only), to the satisfaction of learned Juvenile Justice Board, Sitamarhi, in connection with Riga P.S. Case No. 27/2021 (J.J. Board Case No. 1120/2020), with the condition that, the father of the petitioner shall furnish an undertaking that while the petitioner is on bail, he will not allow the petitioner to come in company/association with any criminal or anti-social element and that he will take proper care of the petitioner. Further, the petitioner will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

(Sudhir Singh, J)

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